

March 15, 2001

Honorable Norman K. Ferguson, Senate Chair
Honorable William R. Savage, House Chair
Joint Standing Committee on Utilities and Energy
115 State House Station
Augusta, ME 04333

Re: LD 931, An Act to Provide for the Security of Certain Utility Information

Dear Senator Ferguson and Representative Savage,

The Commission will testify in support of LD 931, An Act to Provide for the Security of Certain Utility Information, which we developed in partnership with the Department of Public Safety (DPS) and the Department of Defense, Veterans and Emergency Management (DDVEM). The Commission will be present at the work session and will be pleased to work with the Committee as it considers this bill.

LD 931 would resolve uncertainty that currently exists in State law regarding the ability of State agencies to share sensitive information while maintaining its confidentiality. It would allow State agencies that occasionally deal with utility information whose content could compromise the security of a utility's physical and technical systems to share that information if necessary. However, those agencies would not be required to – indeed, would be prohibited from – making that information public, to avoid detriment to the public good.

Occasionally, the Commission must investigate the characteristics of a utility's infrastructure that expose its vulnerability. Such an investigation occurred when we examined utilities' Y2k preparedness, and another such investigation is expected to occur in coordination with ISO-NE to examine the grid's ability to meet summer demands for electricity. During these examinations, we, or other state agencies that ensure emergency preparedness and public safety, look for scenarios in which the public will be vulnerable to harm and reduce the likelihood of those scenarios occurring. Vulnerability could occur in a variety of areas, such as a utility's business practices or its physical infrastructure. It would be counter to the public good to make such information available to members of the public who might wish to exploit those vulnerabilities. In these situations, the Commission is now authorized to obtain utility information pursuant to 35-A M.R.S.A. § 112. Other affected agencies have no such authorization and must obtain relevant information from us.

Title 35-A MRSA § 1311-A authorizes the Commission to protect “confidential or proprietary information, trade secrets or similar matters as provided by the Maine Rules of Civil Procedure.” The extent to which this authority extends to information that could compromise the security of the utility’s systems to the detriment of the public good is uncertain. In addition, the extent to which other State agencies such as the DPS and the DDVEM, as represented by the Maine Emergency Management Authority (MEMA), can maintain the confidentiality of information that we have obtained and protected is uncertain. This bill seeks to eliminate that uncertainty.

The bill requires the Commission to consult with DPS and DDVEM to determine whether release of information could compromise the utility’s systems to the detriment of the public.

The bill is meant to solve a practical problem that affects public security. We urge the Committee to vote out LD 931 as “ought to pass.” We further urge the Committee to assign the bill emergency status so that it may be in effect when we conduct studies of summer electricity preparedness. If you have any questions, please contact me.

Sincerely,

Marjorie R. McLaughlin
Legislative Liaison